

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

SEP 22 2003

U. S. DISTRICT COURT
E. DIST. OF MO.
ST. LOUIS

YOLANDA BEASLEY, et al.,

Plaintiffs,

vs.

ROBERT PIEKUTOWSKI, et al.,

Defendants.

Case No. 4:02CV00823 ERW [consolidated
with 4:02CV01463 SNL]

ORDER

On August 12, 2003, this Court issued an order denying Defendant Keith Kierzkowski's Motion to Dismiss Count One of each Complaint, but dismissed Count Three of each Complaint. In that same order, the Court dismissed Count Two of the original plaintiffs' Complaint against the United States for lack of subject matter jurisdiction, but declined to dismiss Count Two of Intervenor Plaintiff Louise Beasley's Complaint on the same grounds.


Count II of Intervenor Plaintiff Louise Beasley's Complaint is brought under the Federal Tort Claims Act. The United States is the proper party defendant for that claim, *see* 28 U.S.C. § 2679(d)(1), but Defendant Kierzkowski has advised the Court that it has not formally dismissed Count II against him and substituted the United States of America as the defendant for that Count.

Therefore,

IT IS HEREBY ORDERED that Defendant Kierzkowski's Motion to Dismiss Count Two of Intervenor Louise Beasley's Complaint [doc. # 79] is **GRANTED**.

IT IS FURTHER ORDERED that the United States of America shall be substituted as the proper party defendant for Count Two of Intervenor Louise Beasley's Complaint.

Dated this 22nd day of September, 2003.


E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT -- EASTERN MISSOURI
INTERNAL RECORD KEEPING

**** CONSOLIDATED CASE ****

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE
FOLLOWING INDIVIDUALS ON 09/23/03 by cliddy

4:02cv823 Beasley vs Piekutowski

42:1983 Civil Rights Act

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